S.B. CIVIL WRIT PETITION NO.2951/2004

YUVRAJ MEHTA & ANR.

VS.

THE D.J.PALI & ORS.

DATE OF ORDER : 18.1.2005

HON'BLE MR.PRAKASH TATIA, J.

Mr.Sajjan Singh, for the petitioner.
Mr.Kuldeep Mathur, for the respondent.

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Heard learned counsel for the parties.

The petitioner's grievance is against the respondents Electricity Supply Company as the respondents are not issuing electric connection for the industrial unit of the petitioner. The petitioner filed one suit for injunction seeking direction against the respondents to provide electric connection to the petitioner. The injunction application of the petitioner was allowed by the trial court vide order dated 7th May, 2004 (Annex.1) and the trial court directed the respondents to provide electric connection to the petitioner, however, on petitioner's furnishing bank guarantee for Rs.20,000/-. The above order of the trial court dated 7th May, 2004 was challenged by the respondents Electricity Supply Company before the court of District Judge, Pali. The learned District Judge, Pali vide order dated 5th June, 2004 allowed the appeal

of the respondent Electricity Company and dismissed the injunction application of the petitioner. It will be relevant to mention here that petitioner is claiming himself to be the licensee of the plot in dispute. The petitioner's lease of the plot was cancelled by the RICCO and the proceedings were initiated against the petitioner for taking possession by provisions of the Rajasthan Public Premises (Eviction of Unauthorized Occupation) Act, 1964. In that proceeding, the eviction order was passed by the Estate Officer against the petitioner, but that order was set aside in appeal on 27.10.2004, which was preferred by the petitioner to challenge the order of the Estate Officer.

According to learned counsel for the petitioner though the petitioner's firm's name is Vivek Textile, but the petitioner got the registration of unit by disclosing that petitioner will do the business of not only textile alone, but may do the business of very many other things including the food products. The petitioner further submits that petitioner undertakes not to do the textile business till it is permitted by the competent authorities and the necessary permissions are issued to the petitioner for running the textile unit. The petitioner further says that since the petitioner will not be using the electric connection for any textile purpose, therefore, there arises no question of creating any pollution in the factory premises, which may come because of the textile productions. It is also submitted that the petitioner has already

deposited the amount of demand notice, which has been issued by the Electricity Supply Company and further submitted bank guarantee in pursuance of the trial court's order. According to learned counsel for the petitioner, the appellate court went absolutely astray and under impression that petitioner may use the electric connection for running the textile industry, set aside the injunction order. It is also submitted that in case electric connection is granted to the petitioner, it will be in advantage to both the parties as petitioner will run his business and the respondents will earn from the supply of the electricity. So far as apprehension that petitioner may flout the undertaking of not doing the business of textile industry without obtaining permission from all the departments from which the permission is necessary, is having no basis, but the petitioner is ready to furnish an undertaking before the trial court.

Learned counsel for the respondent vehemently submitted that in view of the fact that petitioner's industrial unit has name of Vivek Textile, the respondents have reasonable apprehension that the petitioner may misuse the connection. It is also submitted that when there is a serious dispute between the petitioner and the RICCO, it will be not in the interest of the respondents to grant electric connection to the petitioner.

I considered the submissions of learned counsel for the parties and perused the facts of the case. The petitioner obtained the lease for establishing industrial unit. He is seeking electric connection to run his industrial unit. The respondents may be concerned with the fact that the electric connection permitted by the respondents may not be used for creating pollution, but in this case,when the petitioner is ready to submit the written undertaking that he will not use the connection for textile industry, therefore, there remains no reason for refusing the electric connection to the petitioner. The respondents may be concerned with security of their amount for which the petitioner has already furnished the bank guarantee of Rs.20,000/-. The petitioner further undertakes to pay the electricity charges as per the bills within the stipulated time, thereby the money of the respondents shall be secured.

In view of the above reasons, the present writ petition deserves to be allowed, hence allowed and the order of the appellate court dated 5th June, 2004 is set aside and the order of the trial court is restored. However, it is further ordered that the petitioner shall submit written undertaking before the trial court that he will not use the premises for running his any textile industry in the premises in dispute without obtaining prior permission from all the competent authorities including the Pollution Board, if necessary and shall not use the unit for textile

purpose without informing the court in advance. The petitioner shall also furnish the undertaking that he shall pay the entire electricity dues in time as per bills, which may be issued by the respondents. The petitioner shall submit the undertaking within a period of one week from today and the respondents shall give the electric connection to the petitioner's unit within a period of 7 days thereafter.

(Prakash Tatia), J.

c.p.goyal/-